

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:06cv247**

**MILTON HORNADAY and
RUTH HORNADAY,**

Plaintiffs

v

UNITED STATES OF AMERICA,

Defendant,

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**SHOW CAUSE
ORDER**

THIS MATTER is before the court on the court's own Motion for case status and to show cause. The complaint in this matter was filed on August 22, 2006 and answer was filed by the defendant on November 3, 2006. At the time of the filing of this order a Certificate of Initial Attorney Conference has not been filed by the parties. Local Rule 16.1(A) provides as follows:

Rule 26(f) Conference. As soon as is practicable and in any event at least within sixty-nine (69) days of the appearance of a defendant, and within ninety-nine (99) days of service of the complaint, the parties shall confer as provided by Rule 26(f) of the Federal Rules of Civil Procedure and file a proposed discovery plan within five (5) days of the conference which shall serve as a guideline for the court in issuing a scheduling order as provided by Rule 16(b) of the Federal Rules of Civil Procedure.

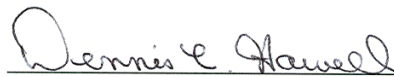
Counting 104 days from the filing complaint would provide that the CIAC should have been filed by December 4, 2006. Counting 74 days from the date of the filing of the answer would provide that the CIAC should have been filed by January 22, 2007. Giving the parties every benefit of the doubt, the parties are, as of April 12, 2007, 80 days late in the filing of the CIAC. It is the goal of the court presiding in the Asheville and Bryson City divisions of the Western District of North Carolina to provide a trial date within one year from the filing of the defendant's answer. The time for discovery in this matter is expiring and the court wishes to address this issue as soon as possible so that the case can be

expeditiously administered. To that end, the court will issue an order directing that counsel of record appear and show cause why they have delayed 80 days in the filing of the CIAC and to further to conduct an initial pretrial conference with the parties so that a discovery plan can be developed.

ORDER

IT IS, THEREFORE, ORDERED that counsel for the respective parties appear and **SHOW CAUSE** for the late filing of the CIAC in this matter and to be prepared to discuss scheduling guidelines at a hearing on Friday, April 20, 2007 at 10:30 a.m. The parties are further directed to consult and be prepared to present to the court on or prior to April 20, 2007 a CIAC in this matter.

Signed: April 13, 2007

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Dennis L. Howell
United States Magistrate Judge

